

33. HOUSING CODE: HOUSING BOARD OF APPEAL

33.01. Housing Board of Appeals. There is established a housing board of appeals which shall consist of seven members appointed by the mayor and confirmed by the council. Two members shall be employed in the public health sector or health professions; one member shall be either an engineer or architect licensed by the state; and the remaining four members shall be members of the public at large. All members shall be residents of the City.

33.02. Organization. At its annual meeting the housing board of appeals shall elect from among its members a chair and a vice-chair for the ensuing year. The chair, or if absent, the vice-chair shall preside over meetings of the board. In the absence of both the chair and vice-chair, the members present shall elect a temporary presiding officer. The director of building and safety or a designated representative shall be the secretary of the board.

The board shall adopt a set of rules to govern its own meetings and procedures which shall not be inconsistent with the provisions of the city charter and this code. The rules may be amended from time to time but only upon prior notice to members that the proposed amendments shall be considered at a specified meeting.

The board shall seek the advice and counsel of the county health officer on all matters pertaining to the public health.

The board shall continually review the provisions of the housing code and shall from time to time make recommendations to the council concerning the housing code and its administration and enforcement.

33.03. Meetings. The housing board shall meet in regular session if so provided in its rules. Otherwise, the board shall meet specially upon call of its chairman or any two members of the board. Written notice of all special meetings shall be given to all members by the secretary, setting forth the purpose of the meeting, and no other matters shall be considered at such meeting without the unanimous consent of all members present. The failure to notify any member who is absent from the city or is from disability unable to receive notice shall in no way invalidate the proceedings at such meeting if a quorum is present.

Three members of the housing board shall constitute a quorum to transact all business.

The board shall act by oral motion or by written resolution but every order of the board and every final action on any petition or appeal shall be by written resolution.

The secretary of the board shall keep minutes of its meetings and proceedings showing the vote of each member upon each question.

All meetings of the board shall be open to the public.

33.04. Votes. Each member of the housing board of appeals, including the chair and vice-chair shall have one vote on all matters. The secretary of the board shall not have a vote.

33.05. Ex officio Members. The planning director and fire chief shall be ex-officio members of this board, but said members shall not have voting rights.

33.06. Appeals to the Housing Board of Appeals. Any person affected by any notice of violation or emergency order issued and served pursuant to the housing code shall be granted a hearing before the housing board of appeals upon filing in the office of the director of building and safety a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. Said petition shall be filed within ten days after the notice or order is served.

33.07. Date of Hearing. The hearing requested shall be held not more than 30 days after the day on which the petition is filed or within 10 days of such filing in case of an emergency order. The chair of the board may postpone the date of the hearing for a reasonable time beyond such period if a good and sufficient reason exists for such postponement and in the case of an emergency order the chair determines that adequate safeguards will be taken to provide for the health and safety of the occupants and general public during such postponement.

33.08. Notice of Hearing. The director of building and safety shall cause 5 days written notice of the hearing to be given to the petitioner of petitioners by personal service or by mailing to the petitioner's last known address.

33.09. Proceedings. At such hearing the petitioner, petitioner's agent or attorney, shall be given an opportunity to be heard and to show cause why the notice of alleged violation or emergency order issued by the director of building and safety should be modified or withdrawn. The director of building and safety shall present a detailed written statement of the findings and decision to the board at the time of the hearing.

33.10. Decisions of the Board. After such hearing the board shall sustain, modify or withdraw the notice of alleged violation or emergency order depending upon its findings as to whether the provisions of the housing code have been complied with. If the board sustains or modifies such notice or emergency order, it shall be deemed to be an order. A copy of the decision of the board shall be served by mail on the petitioner or petitioners.

With respect to existing buildings, whenever it is not practical or feasible to require strict compliance with the substantive provisions of this code, the board may approve a variance from such provisions when in its judgment, existing conditions are in acceptable compliance with the spirit and intent of the code and will reasonably protect the health, safety and welfare of the occupants and the public.

33.11. Record of Proceedings. The proceedings of each hearing held before the board pursuant to petition, including the findings and decision of the director of building and safety, shall be recorded and reduced to writing and entered as a public record in the office of said director. Such record shall include a copy of every notice or order or stay or writing issued in connection with the matter. Any person aggrieved by the decision of the board may seek relief therefrom in any court of competent jurisdiction as provided by the laws of the state.

33.12. Stays. The board may stay enforcement of an order made after a hearing before it pursuant to petition for a reasonable length of time, provided, however, that the board shall first find that immediate enforcement of the order would result in extreme hardship to the person or persons affected.

33.13. Notices Not Appealed. Any notice served pursuant to the provisions of the housing code shall automatically become an order if a written petition for a hearing is not filed with the director of building and safety within 10 days after the notice was served.

(1406, 7/17/67; 1438, 2/19/68; 1476, 12/16/68; 1739, 12/13/73; 1801, 4/7/75; 2514, 7/8/86)